STATE OF SOUTH CAROLINA )	BEFORE THE CHIEF PROCUREMENT
COUNTY OF RICHLAND )	OFFICER FOR CONSTRUCTION
IN THE MATTER OF: BID PROTEST )	DECISION
ROOF REPLACEMENT-MEDICAL A	
& B-WHITTEN CENTER )	
STATE PROJECT J16-9763-MP	POSTING DATE: April 15, 2002
STATE ROOFING COMPANY )	•
vs.	
SOUTH CAROLINA DEPARTMENT OF )	
DISABILITIES & SPECIAL NEEDS)	

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from State Roofing Company, Inc. (State) under the provisions of §11-35-4210 of the South Carolina Consolidated Procurement Code (Code), for an administrative review on Roofing Replacement-Medical A & B-Whitten Center (Project) for the South Carolina Department of Disabilities and Special Needs (DDSN). Pursuant to §11-35-4210(3) of the Code, the CPOC evaluated the issues for potential resolution by mutual agreement and determined that mediation was not appropriate. A formal hearing was held on March 14, 2002.

## NATURE OF THE PROTEST

State submitted a bid for the Project. Upon evaluation, DDSN determined that State did not meet the statutory requirements for responsibility and accordingly rejected State's bid. State appealed DDSN's determination of non-responsibility to the Chief Procurement Officer. After presentation of the protestant's case in chief, the parties requested the opportunity to discuss a possible settlement. The hearing was recessed.

## **DECISION**

The parties have concluded a mutually agreeable settlement to the issues presented by State Roofing. It is the decision of the Chief Procurement Officer for Construction that it is in the best interests of the parties and the State to accept the settlement agreement that is attached to and is hereby made a part of this decision. Accordingly, the protest of State Roofing Company is hereby withdrawn and dismissed with prejudice.

IT IS SO ORDERED

Michael M. Thomas Chief Procurement Officer for Construction

Michael W. Thomas

April 15, 2002 Date

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	BEFORE THE STATE ENGINEER
In the Matter of Bid Protest:	)	
Roof Replacement Medical A &	)	SETTLEMENT AGREEMENT
Medical B, South Carolina Department	)	
of Disabilities and Special Needs	)	
Whitten Center, Clinton, SC	)	
	)	
Contract No.: J16-9763-MP	_)	

WHEREAS State Roofing Company, Inc.("State Roofing"), brought a bid protest in the above captioned matter;

**WHEREAS** the parties have resolved their differences without the need for the Office of the State Engineer to render a decision by agreeing to the following:

- (1) State Roofing agrees to formally and unconditionally withdraw its bid on the Contract referenced above.
- (2) In consideration of State Roofing's withdrawal of its bid, the South Carolina Department of Disabilities and Special Needs ("SCDDSN") agrees to unconditionally withdraw its determination of non-responsibility of State Roofing. Moreover, SCDDSN agrees that the letter from SCDDSN to Mr. Nunnery, dated February 12, 2002, regarding the above project is withdrawn and any determination made therein is a nullity.
- (3) SCDDSN agrees that it will delete the handwritten notes and the typed notes prepared therefrom by the project manager from the project file related to the investigation of non-responsibility of State Roofing.
- (4) Lastly, should the SCDDSN receive a FOIA request wherein the file related to this project is responsive to that FOIA, and any part of State Roofing's file is responsive, SCDDSN covenants that this settlement agreement shall be reproduced as part of the response to the FOIA.

## THIS MATTER IS HEREBY SETTLED.

STATE ROOFING COMPANY, INC.

By: Robert Lynner

Robert Nunnery
Its: President

Date: 3/28/02

SOUTH CAROLINA DEPARTMENT OF

By: frue R. Hill J.

Date: 3/26/02

## **STATEMENT OF THE RIGHT TO APPEAL**

The South Carolina Procurement Code, under Section 11-35-4230, subsection 6, states:

A decision under subsection (4) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected requests a further administrative review by the Procurement Review Panel under Section 11-35-4410(1) within ten days of the posting of the decision in accordance with Section 11-35-4230(5). The request for review shall be directed to the appropriate chief procurement officer who shall forward the request to the Panel or to the Procurement Review Panel and shall be in writing setting forth the reasons why the person disagrees with the decision of the appropriate chief procurement officer. The person may also request a hearing before the Procurement Review Panel.

Additional information regarding the administrative review process is available on the internet at the following Web site: http://www.state.sc.us/mmo/legal/lawmenu.htm